IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

Crl.MC.No. 1749 of 2007()

CC.17/2005 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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PETITIONER:

P.N.RAJU, S/O.NARAYANAN,
AGED 46 YEARS,
PALLICKAMADATHIL HOUSE, MADAKATHANAM.P.O,
VAZHAKULAM, MUVATTUPUZHA.

ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS:

STATE OF KERALA
REPRESENTING SUB INSPECTOR OF POLICE,
CENTRAL POLICE STATION
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1749 of 2007

Dated this the 30th day of May, 2007

ORDER

Petitioner is the 1st accused in a prosecution for the offence punishable under Section 420 I.P.C. According to the petitioner, he is absolutely innocent. At worst, it is only a civil dispute. The petitioner had not received any process from the court. He was totally ignorant and unaware of the proceedings. But unfortunately the learned Magistrate has, assuming that the petitioner is an absconding accused, initiated proceedings against the petitioner. He finds himself facing the predicament of arrest in execution of a non bailable warrant. Steps under Sections 82 and 83 Cr.P.C have already been initiated against the petitioner. The petitioner is willing to appear before the learned Magistrate and seek bail in the ordinary course, but the petitioner apprehends that the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. The petitioner therefore prays that appropriate direction under Section 482 Cr.P.C may be issued in favour of the petitioner to release him on bail when he surrenders and applies for bail.

2. I find no merit in the prayer. It is for the petitioner to appear before the learned Magistrate and explain to the learned

Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-